

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|---|-------------------------------------|---------------------------|--|---|---------------------------------|
| Investigator: Patrick Yu | Team: Squad #8 | CCRB Case #: 201906941 | <input checked="" type="checkbox"/> Force | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Saturday, 07/27/2019 11:40 PM | Location of Incident: [REDACTED] | Precinct: 79 | 18 Mo. SOL 1/27/2021 | EO SOL 9/13/2021 | |
| Date/Time CV Reported Sat, 07/27/2019 11:33 PM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Tue, 08/06/2019 11:09 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------|--------|--------|---------|
| 1. An officer | | | |
| 2. LT Cheng Wang | 00000 | 943939 | PSA 3 |
| 3. POM Jalal Ali | 10928 | 960147 | PSA 3 |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|------------------------|-----------|--------|----------|
| 1. POM Javier Ramirez | 07161 | 959111 | 079 PCT |
| 2. CPT Alison Esposito | 00000 | 920258 | PSA 3 |
| 3. POM Steven Guerrero | 12693 | 966089 | H MAN |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|--|-----------------------------|
| A.POM Jalal Ali | Abuse: Police Officer Jalal Ali searched the vehicle in which § 87(2)(b) was an occupant. | [REDACTED] |
| B.POM Jalal Ali | Discourtesy: Police Officer Jalal Ali acted discourteously toward § 87(2)(b) | [REDACTED] |
| C.POM Jalal Ali | Abuse: Police Officer Jalal Ali interfered with an individual's use of a recording device. | [REDACTED] |
| D.POM Jalal Ali | Force: Police Officer Jalal Ali used pepper spray against an individual. | [REDACTED] |
| E.POM Jalal Ali | Force: Police Officer Jalal Ali used pepper spray against § 87(2)(b) | [REDACTED] |
| F.POM Jalal Ali | Force: Police Officer Jalal Ali used pepper spray against § 87(2)(b) | [REDACTED] |
| G.POM Jalal Ali | Force: Police Officer Jalal Ali used pepper spray against individuals. | [REDACTED] |
| H. An officer | Discourtesy: An officer spoke discourteously to § 87(2)(b) | [REDACTED] |
| § 87(4-b), § 87(2)(g) | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

Case Summary

On July 28, 2019, § 87(2)(b) filed this complaint with IAB generating log #19-29011. The CCRB received this complaint on August 6, 2019.

On July 27, 2019, at approximately 11:40 p.m., officers from PSA 3 and various commands were assigned to a detail in the vicinity of § 87(2)(b) in Brooklyn. At some point during the detail, PO Jalal Ali of PSA3 allegedly searched § 87(2)(b)'s vehicle (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Ali subsequently grabbed a cup from § 87(2)(b)'s hand, threw it on the ground, and then stomped on it (**Allegation B: Discourtesy**, § 87(2)(g)). PO Ali allegedly attempted to snatch § 87(2)(b)'s phone as they were recording (**Allegation C: Abuse of Authority**, § 87(2)(g)). As PO Ali was dispersing a crowd, PO Ali pepper sprayed § 87(2)(b) (**Allegation D: Force**, § 87(2)(g)). § 87(2)(b) and other unidentified individuals were also allegedly affected by the pepper spray (**Allegation E: Force**, § 87(2)(g)). **Allegation F: Force**, § 87(2)(g). **Allegation G: Force**, § 87(2)(g).

As officers arrested § 87(2)(b) an officer spoke discourteously to § 87(2)(b) (**Allegation H: Discourtesy**, § 87(2)(g)).

§ 87(4-b), § 87(2)(g)

The investigation obtained 12 BWC videos from NYPD (Board Review 07-18). The investigation is not in possession of any additional relevant footage.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Jalal Ali searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (B) Abuse of Authority: Police Officer Jalal Ali acted discourteously toward § 87(2)(b)

On July 27, 2019, officers from PSA 3 and various commands were assigned to oversee the “Family Day” detail happening in the vicinity of § 87(2)(b). People were gathered outside the NYCHA complexes to barbeque and hang out. § 87(2)(b) and § 87(2)(b) were among many who attended this event.

In her CCRB testimony, § 87(2)(b) stated that neither she nor § 87(2)(b) had consumed any alcohol prior to interacting with PO Ali (Board Review 02). As § 87(2)(b) stood next to her vehicle, with the doors opened and the windows lowered, PO Ali reached inside and removed § 87(2)(b) cup from the cupholder on the rear passenger side door. PO Ali then threw the cup on the ground and stomped on it. § 87(2)(b) stated that she had alcohol inside the cup and the cup was in the side pocket of the front passenger door when PO Ali removed it from the vehicle (Board Review 01).

§ 87(2)(b) stated that after she told PO Ali that he had reached inside her vehicle illegally, PO Ali approached her asked what was in her cup, and then tried to smack the cup out of § 87(2)(b)'s hand. § 87(2)(b) was holding a clear cup with a lid on it and there was no alcohol inside. § 87(2)(b) told PO Ali, “None of your business. There is juice in here.” PO Ali then grabbed the cup from § 87(2)(b)'s hand, threw it on the ground, and stomped on it. § 87(2)(b) did not witness this.

In her IAB complaint, § 87(2)(b) stated that an officer threw a female's cup of liquor (Board Review 19). However, § 87(2)(b) did not provide a statement to the CCRB and was uncooperative during the investigation.

In his CCRB testimony, PO Ali stated that he approached an unknown number of double-parked vehicles for various reasons and told the individuals to move (Board Review 03). PO Ali denied removing a cup from inside a vehicle. Lt. Wang did not recall if PO Ali interacted with anyone inside a vehicle or if PO Ali reached inside a vehicle and threw a cup away (Board Review 04). PO Ali did not recall taking a cup from a female's hand and throwing it on the ground. Lt. Wang did not recall if he saw PO Ali take a cup from a female and throw it on the ground.

None of the officers' BWC captured this incident.

Without corroborating civilian and officer statements or additional video footage, the investigation was unable to determine by a preponderance of evidence whether PO Ali searched § 87(2)(b)'s vehicle or whether he threw § 87(2)(b) cup on the ground. Therefore, it is recommended that **Allegation A** and **B** be closed as § 87(2)(g).

Allegation (C) Force: Police Officer Jalal Ali interfered with § 87(2)(b)'s use of a recording device.

In her CCRB testimony, § 87(2)(b) stated that a female from the crowd engaged in a "back and forth" conversation with the officers. The female and other civilians had their hands up, elbows bent, and palms facing out as if they were showing that they had no intentions of fighting. At some point, a male who was recording the officers from approximately two or three feet away said, "Look what the cops are doing. They're out here treating us wrong." § 87(2)(b) stated that PO Ali attempted to snatch the male's phone away, but PO Ali never made physical contact with the male's phone. In a follow up call, § 87(2)(b) stated that PO Ali tried to grab the male's phone twice. § 87(2)(b) did not say whether she saw an officer interfere with a civilian's ability to record.

As mentioned above, § 87(2)(b) was uncooperative during the investigation.

In his CCRB testimony, PO Ali recalled several civilians recording throughout the incident. One male had his cellphone out with the flashlight strobing and then had it on a steady flash. PO Ali was not sure if the male was taking photos or if the flashlight was on strobe mode. The male placed his cellphone approximately two feet away from PO Ali's face. PO Ali stated that the male could record, but the strobing light affected his vision which could create a dangerous situation. PO Ali issued several commands to the male to put the flashlight away, turn off the strobe, and to get the phone out of his face. PO Ali then moved the male's phone away from his face by sweeping his arm across in front of him. PO Ali hit the male's hand and cellphone causing the cellphone to fall.

Lt. Wang did not see PO Ali tell anyone that they could not record or interfere with anyone as they were recording. PO Guerrero did not recall seeing an officer interfere with a civilian's ability to record the incident.

None of the officers' BWC captured this incident.

§ 87(2)(b), § 87(2)(g)

Allegation (D) Force: Police Officer Jalal Ali used pepper spray against § 87(2)(b)

Allegation (E) Force: Police Officer Jalal Ali used pepper spray against § 87(2)(b)

Allegation (F) Force: Police Officer Jalal Ali used pepper spray against § 87(2)(b)

Allegation (G) Force: Police Officer Jalal Ali used pepper spray against individuals.

It is undisputed that PO Ali discharged his pepper spray. § 87(2)(g)

In her CCRB statement, § 87(2)(b) stated that she was approximately three feet away from the officers as they stood in a line facing approximately 10-15 civilians (Board review 01). An unidentified female stood directly in front of the crowd while telling the officers that she knew her rights. PO Ali subsequently reached past the officers and discharged his pepper spray towards the female. PO Ali did not say anything prior to discharging his pepper spray. § 87(2)(b) and at least five other people were affected by the pepper spray. § 87(2)(b) stated that § 87(2)(b) was not pepper sprayed. In a follow up call, § 87(2)(b) stated that she did not know in what motion PO Ali discharged the pepper spray, but it appeared that he sprayed it directly at § 87(2)(b) while some overspray affected other civilians. Prior to being pepper sprayed, § 87(2)(b) told PO Ali that he had a "Napoleon complex" and other civilians were also speaking at the time. § 87(2)(b) hands were down to her side at the time and no one was fighting or arguing.

In her CCRB statement, § 87(2)(b) stated that while the officers and civilians were yelling, PO Ali pepper sprayed her, § 87(2)(b) and other civilians (Board Review 03). § 87(2)(b) did not know if PO Ali said anything before PO Ali pepper sprayed the crowd in a circular motion.

In their CCRB testimony, PO Ali and Lt. Wang stated that the "Family Day" event ended at 6:00 p.m. (Board Review 03 and 04). PO Ali stated that he and other officers began telling the civilians to leave the location at approximately 8:00 p.m. Some civilians left but there were still approximately a few hundred civilians at the location. PO Ali stated that there were only about 10 officers at this point. Lt. Wang stated that he instructed the officers to disperse the civilians at approximately 11:00 p.m. Lt. Wang did not see exactly what PO Ali did as he dispersed the crowd.

PO Ali stated that approximately four officers walked up and down the street to disperse the crowd with their presence, but some of the civilians refused to move and said that they were going to fight if the officers wanted them to move. At some point, a male, who stood in front of approximately 50 people and approximately three or four feet away from PO Ali, told PO Ali that he was going to fight, removed his shirt, and took a fighting stance, similar to a boxing stance, with his hands in front of him with one leg behind the other. As the male moved closer towards PO Ali, PO Ali pepper sprayed him because he believed that the male was going to fight him. PO Ali held the trigger for approximately a second and motioned a "plus symbol" in front of him with the pepper spray by spraying up and down and left and right to get the male's eyes and from his head to his chin. PO Ali denied spraying his pepper spray in a circular motion. PO Ali stated that Lt. Wang was present when he pepper-sprayed the male. PO Ali was not aware if other civilians were affected by the pepper spray, but they possibly could have been due to how close they were to the male. PO Ali knew that the pepper spray was effective because the male put his head down, closed his eyes, and then retreated into the crowd. PO Ali lost sight of the male. During his CCRB interview, PO Ali was presented with TRI report #139 noting that he used the pepper spray because multiple civilians clenched their fists and took a fighting stance. PO Ali stated that he recalled civilians cracking their knuckles.

Lt. Wang did not see the interaction between PO Ali and this male, but he was informed of the

interaction by PO Ali. The information PO Ali provided to Lt. Wang was consistent with PO Ali's CCRB testimony.

§ 87(2)(b), § 87(2)(g) [REDACTED]

Allegation (H) Discourtesy: An officer spoke discourteously to § 87(2)(b)

In a clip from PO Steven Guerrero's BWC, at 00:41, as an officer is handcuffing § 87(2)(b) and officer, unclear whether it is the same officer handcuffing § 87(2)(b) tells her, "What the hell is wrong with you? Don't jump on a fucking officer. Don't jump on an officer. Don't ever jump on a fucking officer (Board Review 08." The subject officer is not clearly captured in the BWC.

None of the civilians identified in the investigation mentioned this occurrence. Additionally, the investigation was unable to identify § 87(2)(b) to obtain a statement.

PO Ali and PO Guerrero denied using profanities during the incident. Lt. Wang denied hearing an officer use profanities. The BWC footage was shown to Lt. Wang and PO Guerrero and they did not know whose voice was captured using profanities. PO Ali was not shown the BWC footage.

§ 87(2)(b), § 87(2)(g) [REDACTED]

§ 87(2)(b), § 87(2)(g), § 87(4-b) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] have been a party.
- PO Ali has been a member of service for four years and has been a subject in three CCRB complaints and 12 allegations of which three were substantiated:
 - 201701698 involved substantiated allegations of refusal to provide name/shield number, threat of arrest, and discourtesy. The Board recommended Command Level Instructions and the NYPD imposed Formalized Training.
 - PO Ali's CCRB history does not reflect any patterns pertinent to this investigation.
- Lt. Wang has been a member of service for 13 years and has been a subject in one other CCRB complaint and two allegations, none of which were substantiated. Lt. Wang's CCRB history does not reflect any patterns pertinent to this investigation.

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] denied to mediate this complaint.
- A Notice of Claim query was sent on March 20, 2019. The results are pending.
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date